

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

1. The petitioner moved into her present apartment in December 2002. On December 23, 2002 the petitioner furnished the Department with a shelter expense verification form signed by her landlord that the rent on the apartment would increase from \$375 a month to \$425 effective January 1, 2003. On the basis of this information the Department increased the amount

of the petitioner's base¹ RUFA grant by about \$25 a month effective January 1, 2003.

2. In February 2003 the petitioner informed the Department that her rent had not actually increased, but that as of January 1, 2003 her landlord had agreed to accept payments of \$50 a month over and above her rent of \$375 to be applied toward a security deposit of \$350.

3. Based on this information the Department notified the petitioner that effective March 1, 2003 her base RUFA grant would be reduced by \$25 a month due to a decrease in her allowable shelter costs.²

4. The petitioner argues that the payments she makes toward her security deposit should be included in her monthly housing expenses in determining the amount of her RUFA grant. The petitioner does not dispute, however, that at the end of her rental term (whenever that may be) she is entitled to a return of her deposit provided that her rent is current and there is no damage to the premises.

¹ The petitioner's ongoing RUFA grant is subject to the recoupment of a prior, unrelated, overpayment, which reduces her actual monthly payment amounts by ten percent.

² As of the date of the hearing in this matter, April 17, 2003, the Department had made no determination as to whether the petitioner was overpaid RUFA benefits for January and February 2003. The petitioner's RUFA grant has been continued at the higher rate during the pendency of this hearing.

ORDER

The Department's decision is affirmed.

REASONS

Welfare Assistance Manual (W.A.M.) § 2245.3 includes the following:

Housing expense is defined as the total of all verified costs incurred for any of the following: rental (house apartment, lot), real estate (or equivalent personal property) taxes, maintenance and repairs, mortgage payments, and condo and association fees . . . Housing allowances shall be budgeted "as incurred" to cover recurring shelter expenses necessary to maintain a home . . .

The above provisions make no mention of security deposits, regardless of how they are paid. The Department maintains that security deposits are not a "recurring shelter expense" within the contemplation of the above regulation, despite the fact that in this case the petitioner's landlord has agreed to accept monthly payments in lieu of an "up front" charge.

Based on the fact that sometime in the future the petitioner will most likely be able to recoup the full amount of these payments, it must be concluded that the Department's interpretation of the regulation is reasonable. To rule otherwise would create a "windfall" for the petitioner when the deposit is returned to her, and would thus require the

Department to consider the eventual return of the deposit to the petitioner as lump sum income in the month she receives it (see W.A.M. § 2250.1), which almost certainly would result in a net loss of benefits for the petitioner.³

Inasmuch as the Department's decision in this matter is in accord with the pertinent regulations the Board is bound by law to affirm it. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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³ In this scenario, due to the "ratable reduction" that is applied to basic needs and shelter expenses (i.e., RUFA pays only about fifty percent of need, see W.A.M. § 2245.24), any increase in the petitioner's RUFA grant allowed if the deposit payments are considered shelter expenses would amount to only half of the monthly payment. However, in the month that the deposit is returned to her, the resulting "income" would most likely result in a dollar-for-dollar reduction in her RUFA grant that month. See W.A.M. § 2240. It is doubtful that the petitioner would persist in her argument in this matter if she understood that such a result would inevitably flow from it.